

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

UNITED STATES OF AMERICA,

**08-CR-147-A**

v.

**NOTICE OF MOTION**

CRAIG SCHIEDER,

Defendant.

---

**MOTION BY:**

Kimberly A. Schechter, Assistant Federal Public Defender.

**DATE, TIME & PLACE:**

Before the Honorable Richard J. Arcara, United States District Judge, United States Courthouse, 2 Niagara Square, Buffalo, New York, **on December 22, 2011, at 10:30 a.m.**

**SUPPORTING PAPERS:**

Affirmation of Kimberly A. Schechter, dated December 19, 2011.

**RELIEF REQUESTED:**

Dismissal of two acts contained in Petition for Offender under Supervision executed on December 12, 2011.

**DATED:**

Buffalo, New York, December 19, 2011.

/s/ Kimberly A. Schechter

Kimberly A. Schechter  
Assistant Federal Public Defender  
Federal Public Defender's Office  
300 Pearl Street, Suite 200  
Buffalo, New York 14202  
(716) 551-3341, (716) 551-3346 (Fax)  
[kimberly\\_schechter@fd.org](mailto:kimberly_schechter@fd.org)  
Attorney for Defendant Craig Schieder

**TO:** Paul Campana  
Assistant United States Attorney

Christopher C. Calero  
United States Probation Officer Supervisor

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

UNITED STATES OF AMERICA,

**08-CR-147-A**

v.

**AFFIRMATION**

CRAIG SCHIEDER,

Defendant.

---

**KIMBERLY A. SCHECHTER**, affirms under penalty of perjury that:

I am an Assistant Federal Public Defender in the Western District of New York and was assigned to represent Craig Schieder on December 15, 2011. This case has been adjourned to December 22, 2011, at 10:30 a.m. for a status conference.

The defense hereby moves to dismiss two allegations contained in the Petition for Offender under Supervision on the grounds that if prosecuted, it would violate basic notions of due process and double jeopardy in that the Defendant has already been punished for them.

Specifically, the petition alleges that Mr. Schieder has used cocaine on three occasions: (1) July 10, 2010; (2) March 18, 2011; (3) December 7, 2011. However, after the first two of those positive cocaine results, this Court modified his terms of release by including three months home detention on an ankle bracelet (*see* **Modification** on p. 1 of the Petition). It would appear that such punishment has been fully served. As such, the only new conduct that has not been punished is the allegation that on December 7, 2011, Mr. Schieder admitted to using cocaine.

Having already adjudicated the two prior acts alleged anew in the Petition, the Court should strike such acts from its consideration at this time.

Moreover, given the remaining allegation, namely, one admission of cocaine use, it is respectfully submitted that this Court should adjourn this case for three months to permit Mr. Schieder to demonstrate that he is willing and able to live a drug free life.

He is fully employed and recently informed his employer that he has a drug problem. (See **Exhibit A**). He pays his child support. He is also attending Narcotics Anonymous. (See **Exhibit B**). He believes that the Narcotics Anonymous meetings are more helpful than outpatient drug treatment has been and is greatly encouraged and remains positive about his outcome with this group.

The facts of this case simply do not warrant the Court spending time running a hearing, asking a probation officer to do an investigation, and then possibly sentencing him to a term of incarceration. He should be given an opportunity to demonstrate that he can remain drug free.

**WHEREFORE**, it is respectfully requested that this Court strike the allegations in the petition relating to acts already adjudicated and further, that the Court adjourn the case for a three month period with an eye toward dismissing the Petition if he has remained drug free.

**DATED:** Buffalo, New York, December 19, 2011.

Respectfully submitted,

**/s/Kimberly A. Schechter**

Kimberly A. Schechter

Assistant Federal Public Defender

Federal Public Defender's Office

300 Pearl Street, Suite 200

Buffalo, New York 14202

(716) 551-3341, (716) 551-3346 Fax

[kimberly\\_schechter@fd.org](mailto:kimberly_schechter@fd.org).

Counsel for Defendant Craig Schieder

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

UNITED STATES OF AMERICA,

v.

**08-CR-147-A**

CRAIG SCHIEDER,

Defendant.

---

**CERTIFICATE OF SERVICE**

I hereby certify that on **December 19, 2011**, I electronically filed the foregoing with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to the following:

1. Paul Campana  
Assistant United States Attorney  
Western District of New York  
138 Delaware Avenue, Federal Centre  
Buffalo, New York 14202

And, I hereby certify that I have e-mailed the document to the following non-CM/ECF participant(s).

1. Christopher C. Calero  
United States Probation Officer Supervisor  
U. S. District Court  
2 Niagara Square  
Buffalo, New York 14202

**/s/ Joanne Sabatino**

Joanne Sabatino, Legal Secretary  
Federal Public Defender's Office